

**STATE OF MARYLAND
JUDICIARY**

Policy on Sick Leave

I. PURPOSE

To establish a uniform practice for the administration of sick leave for regular employees of the State of Maryland Judiciary.

II. DEFINITIONS

1. **Administrative Official**
 - (a) the Clerk of Court for the Circuit Court in which the employee works;
 - (b) the Administrative Clerk or Administrative Commissioner of the District Court for the district in which the employee works; or
 - (c) the director of the respective department or office within the Courts of Appeal, the Administrative Office of the Courts, the District Court Headquarters, or the Court-Related-Agency in which the employee works.
2. **Chargeable Occurrence** – any sick leave usage other than:
 - Death in family for eligible family members
 - Documented prescheduled and pre-approved medical appointments
 - Absences designated under FMLA
3. **Documented** – an absence supported by documentation from a medical provider certifying that the employee or an eligible family member is under medical care (i.e., medical appointments, hospitalization, treatment, etc.) and the employee cannot work due to the employee's own illness or the illness of an eligible family member.
4. **Regular Employee** – for purposes of this policy, any person employed by the Judiciary, except Judges, Law Clerks, Clerks of Court, or individuals employed as consultants or on a contractual or temporary basis.
5. **Sick Occurrence** – any period of absence due to illness (documented or undocumented), which is bracketed by work time, holiday, or other approved paid leave.

III. SCOPE

This policy applies to all regular employees of the State of Maryland Judiciary. The administration of this policy is the responsibility of all Judiciary administrators, managers and supervisors responsible for the management or supervision of Judiciary personnel.

IV. POLICY STATEMENT

Employees are the Judiciary's most valuable asset. The Judiciary cannot function efficiently without the contribution of its employees. In order for the Judiciary to fulfill its mission, all employees are expected to report to work on a regular and dependable basis and to perform all other essential functions of their positions. However, the Judiciary recognizes that illness may temporarily prevent employees from performing the duties of their positions. To minimize the adverse economic effect of illness on employees, a paid sick leave program is provided.

V. ELIGIBILITY AND EARNINGS

All regular employees are provided with a maximum of 15 days of sick leave per calendar year (pro-rated based on date of hire/separation). Sick leave may be carried over from one year to the next with unlimited accumulation.

Employees begin earning sick leave from the first day on the job. Sick leave is credited to employees at the end of a pay period based on the figure of 4.62 hours per pay period. This figure is pro-rated for part-time employees or full-time employees who have leave without pay.

VI. ADMINISTRATION OF SICK LEAVE

1. Sick Leave Usage

Sick leave may be used only for:

- An illness or medical care of the employee.
- An illness or medical care of an eligible family member. Eligible family members include: spouse, children, parents of employee or spouse or others who took the place of parents of the employee or spouse. Other eligible family members include relatives living as members of the employee's household.
- Death of a relative. (Also see the Bereavement Leave Policy.)

An employee may use up to 2 days of sick leave (4 days if overnight travel is required) upon the death of the following family members: spouse; children of the employee; foster or step children of the employee; parents of the employee or spouse or others who took the place of parents of the employee or spouse; brothers or sisters of the employee or spouse; grandparents or grandchildren of the employee or spouse; and

sons-in-law and daughters-in-law of the employee.

A maximum of 1 day of sick leave (2 days if overnight travel is required) may be used in the event of the death of one of the following relatives: aunts and uncles of employee or spouse; nephews and nieces of employee or spouse; brothers-in-law and sisters-in-law of employee or spouse; and sons-in-law and daughters-in-law of the employee's spouse.

- Adoption or accepting a child for foster care (refer to the Family and Medical Leave Policy).

The immediate supervisor may deny sick leave when medical documentation is not produced in accordance with this policy.

Sick leave may not be used in lieu of other forms of paid leave, including annual, accident, personal and compensatory. Medical documentation must be provided for any illness-related absence with duration of 3 or more consecutive workdays.

For retirement purposes, unused sick leave is credited towards an employee's State service at a rate of **one month of creditable service for every 22 days of sick leave**. (Sick leave does not apply towards retirement eligibility.)

Unused sick leave is not paid out upon separation. If an employee is reinstated within 3 years of departure from Judiciary service, the employee's sick leave balance will be restored.

2. Documentation

a. Sick Leave Request

In a case where an employee is able to provide notice prior to taking sick leave, the employee should complete a "Leave Request" form and submit it to his or her immediate supervisor.

b. Medical Certificate of Illness

An employee must provide medical documentation for any absence due to his or her own illness, or illness of an eligible family member that is of duration of 3 or more consecutive working days. If the absence is 3 or more days in duration, medical documentation must include the employee's inability to work, the possible duration of the condition and incapacity, and the anticipated date of return to work. Documentation for absences due to the illness of an eligible family member shall verify the illness of the family member and the period of absence.

A positive statement documenting the period of absence is required, e.g., "John Doe has been under my care and unable to work from _____ to _____ and is authorized to return to work on _____." "

Statements from a medical provider such as "John Doe has been under my care from _____ to _____" are not acceptable for this purpose. The certificate also must contain the medical provider's name, address, telephone number, and signature.

Original or faxed medical certificates must be provided to the immediate supervisor immediately upon returning to work except as provided under the "Lengthy Illness" provision of this policy. If the documentation is not provided, the employee's absence may be charged to leave without pay. The immediate supervisor is authorized to check on the authenticity of submitted certificates and may reject any certificate not meeting the standards described in this policy.

c. Medical Statement of Appointment

It is recognized that an employee will need to consult periodically with medical care providers to attend to his or her routine, therapeutic, and non-critical medical needs and those of eligible family members. An employee may use earned sick leave to cover health maintenance appointments provided that certain conditions are met.

An employee requesting an absence for non-emergency health care appointments must request and receive advanced approval for that leave from his or her immediate supervisor. If, in the opinion of the immediate supervisor, office operations would be affected adversely, the request may be denied. Employees must submit requests on a "Leave Request" form to their immediate supervisor. The request will be reviewed and approved or denied, and returned to the employee.

An employee using sick leave for a scheduled office visit may be required to submit, as documentation, a medical statement of appointment, e.g., "John Doe was seen in my office today at _____ and left at _____." Such documentation covers merely the time spent in the medical provider's office plus a reasonable commuting time. It is up to the immediate supervisor to determine a "reasonable commuting time" for each instance. Only in unusual cases could such documentation be used to cover an entire day's absence.

The immediate supervisor is authorized to check on the authenticity of submitted statements of appointment and may reject any statement not meeting the standards described in this policy.

d. Lengthy Illness

An employee experiencing a lengthy illness is expected to report to his or her immediate supervisor at least once every week. The report should include any changes in the employee's current condition and anticipated return to work. A medical certificate shall be forwarded to the immediate supervisor not less than once a month or as often as every 2 weeks, if

the circumstances so indicate. This certification should include the prognosis for the employee's return to work. (Sick leave usage lasting more than 3 consecutive days will be considered leave taken under the Family and Medical Leave Act, if it is found to be a qualifying event. If a "lengthy illness" is determined to be a qualifying event under the FMLA, the provisions of the FMLA policy regarding documentation will apply. Please refer to the FMLA policy for details.)

e. Illness During Annual, Personal or Compensatory Leave

If an illness occurs during a period of annual, personal or compensatory leave, the supervisor shall grant sick leave for the period of illness if the employee presents a medical certificate which verifies the period of illness and which is in accordance with the standards set forth in this policy.

f. Medical Providers

Acceptable medical certificates or documents for all purposes under this policy must be original or faxed certificates signed by a person who is licensed or certified as any of the following:

- Physician
- Physical Therapist
- Clinical Psychologist
- Dentist/Orthodontist
- Oral Surgeon
- Chiropractor
- Podiatrist
- Certified Nurse Practitioner
- Certified Nurse-midwife
- Licensed Certified Social Worker - Clinical
- Ophthalmologist/Optometrist
- Physician's Assistant

VII. FAMILY AND MEDICAL LEAVE

An employee may be eligible to take up to 12 weeks of time off under the Family Medical Leave Act (FMLA) within any 12-month period. This may cover employee or family illness, adoption or foster care. Refer to the Family Medical Leave guidelines for details.

VIII. BEREAVEMENT LEAVE

Refer to the Bereavement Leave Policy for detailed provisions.

IX. EMPLOYEE RESPONSIBILITY

It is every employee's responsibility to conserve and manage his or her own leave in

order to be as prepared as possible for emergencies and extended illnesses.

- An employee is expected to make every effort to schedule medical appointments on his or her own time or schedule appointments so they are least disruptive to the employer. When this is not possible, it is the employee's responsibility to coordinate the absence, in advance, with the supervisor at a mutually beneficial time. The supervisor is encouraged to cooperate to the fullest extent possible in resolving any scheduling conflicts.
- An employee experiencing a short-term illness is expected to contact his or her supervisor daily or to follow procedures established for his or her particular office/department.
- For any absence of 3 or more days, or when otherwise required, it is the employee's responsibility to provide medical documentation that meets all the standards set out for documentation in this policy.

It is every employee's responsibility to become familiar with the provisions of this policy and to abide by it. Any questions concerning the policy should be discussed with the supervisor or the Human Resources Department for clarification.

X. MANAGEMENT RESPONSIBILITY

It is the responsibility of the supervisor to ensure that the control of sick leave usage is an integral part of the management process. This policy has been developed to assist the supervisor in fulfilling that responsibility. The success of this policy in controlling sick leave usage will lie in a consistent application and use of good judgment.

- The supervisor shall ensure that proper coding is recorded on the employee's time report and that the supporting medical documentation is kept in a confidential file.
- For any absence of 3 or more days, or when otherwise required, it is the supervisor's responsibility to obtain medical documentation from the employee that meets all the standards set out for documentation in this policy.
- If the absence is of 3 or more days and qualifies for protection under the FMLA, the manager will designate the absence as covered by the FMLA.
- Supervisors shall preserve the confidentiality of any medical information given to them by employees (with the exception of management personnel who have a need to know).

XI. ATTENDANCE MANAGEMENT

The Judiciary recognizes that an employee may use accrued annual, personal, compensatory and sick leave in accordance with Judiciary policies to address his or her needs and that these needs are not always foreseeable. The Judiciary expects an employee to conserve and manage the use of leave in such a way as to be prepared to

deal with personal and family emergencies and lengthy illnesses without exceeding accrued leave. Additionally, unscheduled absences should be kept to a minimum.

The supervisor will monitor employees' sick leave usage closely and will take appropriate steps if an employee demonstrates behavior indicative of potential abuse of sick leave. Supervisors should undertake a systematic review of each employee's record on a regular basis. It is the supervisor's responsibility to keep an accurate account of the number of sick occurrences for each employee supervised for the leave year and rolling 12-month period. The Human Resources Department can assist in this process by providing leave accounting reports upon request by the supervisor.

All chargeable sick occurrences will be considered in the evaluation of an employee's sick leave usage. (See Section II for the definition of a "Chargeable Occurrence." The use of sick leave for a medical appointment for the employee or family member, or for the care of a family member, for a non-serious medical condition, such as a common cold or stomach ache, may not be covered under the FMLA. If such an absence meets the definition of a "Chargeable Occurrence," and it is not covered under the FMLA, then it will be counted as a "Chargeable Occurrence.")

The number of occurrences of sick leave and the reasons for use of sick leave shall be considered by the supervisor for implementation of attendance management measures.

The supervisor shall keep a record of sick leave occurrences and distinguish chargeable occurrences from others. Chargeable occurrences of leave for family illness and for an employee's own illness are combined when evaluating the employee's attendance.

If an employee has exhausted available sick leave and uses other leave with pay or leave without pay because of the employee's illness, family illness or medical appointment, that use of leave shall be considered an occurrence for implementation of attendance management measures.

1. Employee Counseling

The supervisor shall counsel an employee having 5 or more chargeable occurrences of sick leave within a "rolling" calendar year (12-month period). Counseling is required for an employee who, in the opinion of the supervisor, is abusing sick leave.

The purpose of the counseling session is to:

- Identify the causes of the employee's absenteeism;
- Determine if there is any abuse of sick leave privileges;
- Assist the employee in the resolution of any work-related, medical or personal problems that may be contributing to the employee's absenteeism; and
- Determine if absences qualify as FMLA.

The supervisor must notify the Administrative Official and the Human Resources Department to request a referral for an independent medical evaluation (See

Section XIII) or to the Employee Assistance Program.

2. One-Day Medical Certificate

If it is determined that an employee's use of sick leave is excessive, or the employee has abused or may abuse the sick leave policy, the employee will be required to submit a medical certificate for any period of illness and for medical appointments. This includes any period of absence used due to illness of an eligible family member. The one-day certification requirement may be implemented only in cases of 5 or more chargeable occurrences within a "rolling" calendar year (12-month period), or when there is an indication an employee has abused or may abuse this policy. At the end of 6 months, if the employee's record has shown significant improvement, the one-day medical certificate will no longer be required. At any time during the 1-day medical certificate requirement period, the 1-day medical certificate requirement may be extended up to 6 months and/or further disciplinary action may be taken, up to and including termination of employment, if there is insufficient improvement.

XII. ATTENDANCE IMPROVEMENT PLAN

An employee who, during a rolling 24 month period, has been absent due to illness for 20 chargeable days or who has accrued 10 chargeable occurrences (excluding absences covered under the FMLA or provided as a reasonable accommodation under the Americans With Disabilities Act), or any employee maintaining a sick leave balance of under 16 hours during any 8 week period of time, will be referred to the next level of supervision for counseling, providing the immediate supervisor has taken all appropriate steps in accordance with the Sick Leave Policy prior to the referral. The employee will receive a letter stating the referral is made because the employee's absenteeism has reached a level of serious concern or there is no evidence the employee is managing leave and conserving it for emergencies and/or medical situations.

The next level supervisor will counsel the referred employee, addressing the employee's unacceptable use of sick leave or other related issues of concern. The counselor and employee will develop an Attendance Improvement Plan that will identify the steps the employee is to take to improve attendance at work to meet the Judiciary's expectations.

If the employee does not abide by the Attendance Improvement Plan, the employee will receive a written reprimand and will be placed on a 90-day attendance improvement period. The employee will be given a progress review at the end of the first 45 days.

If the employee does not conform to the plan during the attendance improvement period, additional progressive discipline will follow, which may include termination of employment. The attendance improvement period may be terminated early or extended at any time at the discretion of management based on the employee's attendance or mitigating circumstances.

XIII. INDEPENDENT MEDICAL EVALUATION

At the discretion of the Administrative Official, and in consultation with the Human Resources Department, an employee may be referred for an independent medical

evaluation. Such a request should be accompanied by reasons for the request and a record of absenteeism caused by illness.

XIV. HUMAN RESOURCES RESPONSIBILITY

Upon request, the Human Resources Department will provide the Administrative Official a leave history report and guidance concerning appropriate counseling.

XV. INTERPRETIVE AUTHORITY

The Judiciary Human Resources Department, in consultation with other parties as appropriate, is responsible for the interpretation of this policy.